

ORIGINAL

FILED
U.S. DIST. COURT
AUGUSTA DIV

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

Feb 24 4 54 PM '98
CLERK SO. DIST. OF GA. *[Signature]*

HERBERT E. BRETT, DAVID
HANNAH, WAYNE D. HATTAWAY,
and JERRY O. HUDSON,

Plaintiffs,

v.

JEFFERSON COUNTY,
GEORGIA, and CHARLES GARY
HUTCHINS, individually
and in his official
capacity as SHERIFF of
JEFFERSON COUNTY, GEORGIA,

Defendants.

CIVIL ACTION NO.
CV 193-144

ORDER

Following this Court's Order granting summary judgment in favor of Defendants, the Eleventh Circuit Court of Appeals affirmed in part, vacated in part, and remanded this case for additional fact finding. In its opinion, the Eleventh Circuit stated that

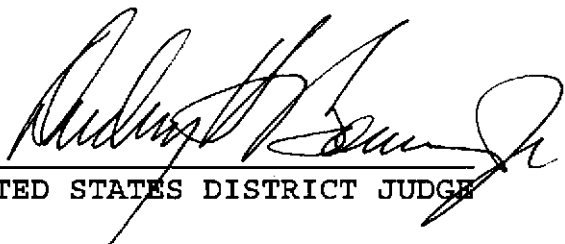
The district court must decide on remand which balancing test to apply, Pickering or Elrod-Branti. Choosing the proper test, however, turns on certain predicate factual issues which are in dispute: the basis for Hutchins' failure to rehire Brett, Hannah, Hattaway, and Hudson and the nature of the political activity in which the

former deputy sheriffs participated. Thus, we remand for additional fact finding so that the district court can decide which test properly to apply in the First Amendment analysis.

Brett v. Jefferson County, 123 F.3d 1429, 1433 (11th Cir. 1997). The Eleventh Circuit determined that the following factual issues are in dispute: (1) the existence of negative campaigning; (2) alleged substance abuse by Plaintiffs; (3) the futility of Plaintiffs' application; (3) the basis for Hutchins' failure to rehire Plaintiffs; and (5) the nature of the Plaintiffs' political activity.

The parties are hereby invited to inform the Court in ten (10) days from the date of this Order whether any of the necessary facts can be established through additional affidavits or stipulations, and if the case is otherwise ripe to proceed to trial.

ORDER ENTERED at Augusta, Georgia, this 24th day of February, 1998.


UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
Southern District of Georgia

Case Number: 1:93-cv-00144
Date Served: February 24, 1998
Served By: Emmie S. Flanders *esb*

Attorneys Served:

Margaret E. Sanders, Esq. ✓
Michael Allen O'Quinn, Esq. ✓
Megan Gideon, Esq. ✓
Marcia Borowski, Esq. ✓
John Paul Batson, Esq. ✓

☒ Copy placed in Minutes
☒ Copy given to Judge
☐ Copy given to Magistrate